



Reprinted
February 18, 2009

HOUSE BILL No. 1114

DIGEST OF HB 1114 (Updated February 17, 2009 9:38 am - DI 103)

Citations Affected: IC 13-14; IC 13-26; IC 14-33; IC 16-22; IC 16-41.

Synopsis: Septic tanks and sewer systems. Provides that the Indiana department of environmental management (IDEM) may not require a county to join or form a regional sewage district to provide sewer service to an unincorporated area of the county unless IDEM determines that the population density of the unincorporated area exceeds the minimum population density at which property owners in an unincorporated area of the county may be required to discontinue septic system use. Requires the legislative body of a county that contains unincorporated areas to adopt an ordinance establishing the minimum population density at which property owners in an unincorporated area of the county may be required to discontinue septic system use. Provides that a regional sewage district may not require a property owner to connect to a sewer system if the property is: (1) located in an unincorporated area; and (2) served by a septic system that is, as determined by local health department, functioning satisfactorily. Establishes an optional alternative billing method for campground sewage service. Authorizes the Indiana utility regulatory commission to resolve certain disputes concerning campground sewage service charges. Prohibits the adoption or enforcement of an ordinance that would require a residential property owner to install a new septic system or update an existing septic system under certain circumstances.

Effective: July 1, 2009.

**Cheatham, Knollman, McClain,
Lehe**

January 8, 2009, read first time and referred to Committee on Environmental Affairs.
February 12, 2009, reported — Do Pass.
February 17, 2009, read second time, amended, ordered engrossed.

HB 1114—LS 7032/DI 103+



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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1114

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-14-3-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If the
3 commissioner finds that the local governmental units have not
4 developed plans that provide for adequate:

- 5 (1) water supply;
- 6 (2) air, water, or wastewater treatment; or
- 7 (3) solid waste disposal facilities;

8 the department may hold a public hearing.

9 (b) If the facts support the conclusion, the department may order the
10 affected local governmental units to proceed to form regional water,
11 sewage, air, or solid waste districts that are necessary under IC 13-26.

12 **However, the department may not require a county to:**

- 13 (1) establish or join a regional sewage district to serve; or
- 14 (2) through a regional sewage district of which the county is
15 a member, extend sewer service to;

16 **an unincorporated area of the county unless the department**
17 **determines that the population density of the unincorporated area**

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1 of the county exceeds the minimum population density established
 2 in an ordinance adopted by the county legislative body under
 3 section 4 of this chapter.

4 SECTION 2. IC 13-14-3-4 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 6 1, 2009]: Sec. 4. (a) The legislative body of a county that contains
 7 unincorporated areas shall adopt an ordinance that establishes a
 8 minimum population density for an unincorporated area at which
 9 owners of property located in the unincorporated area may be
 10 required to connect to a regional sewer district's sewer system and
 11 to discontinue use of septic systems. The county legislative body
 12 shall consult with the local health department to establish a
 13 minimum population density under this subsection.

14 (b) An ordinance adopted under subsection (a) may not violate
 15 any rules adopted by the department under IC 13-22-2-4 or
 16 IC 13-18.

17 (c) Nothing in this section may be construed to relieve a sewage
 18 disposal company of the requirement to obtain a certificate of
 19 territorial authority under IC 8-1-2-89.

20 SECTION 3. IC 13-26-5-2.5 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. (a) As used in this
 22 section, "septic tank soil absorption system" has the meaning set forth
 23 in IC 13-11-2-199.5.

24 (b) This section applies to an owner of property located in an
 25 incorporated area.

26 ~~(b)~~ (c) Subject to subsection ~~(d)~~ (e) and except as provided in
 27 subsection ~~(e)~~ (f), a property owner is exempt from the requirement to
 28 connect to a district's sewer system and to discontinue use of a septic
 29 tank soil absorption system if the following conditions are met:

30 (1) The property owner's septic tank soil absorption system was
 31 installed not more than five (5) years before the district's sewer
 32 system's anticipated connection date.

33 (2) The property owner's septic tank soil absorption system was
 34 new at the time of installation and was approved in writing by the
 35 local health department.

36 (3) The property owner, at the property owner's own expense,
 37 obtains and provides to the district a certification from the local
 38 health department or the department's designee that the septic
 39 tank soil absorption system is functioning satisfactorily. If the
 40 local health department or the department's designee denies the
 41 issuance of a certificate to the property owner, the property owner
 42 may appeal the denial to the board of the local health department.

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The decision of the board is final and binding.

(4) The property owner provides the district with:

(A) the written notification of potential qualification for the exemption described in subsection ~~(g)~~; **(h)**; and

(B) the certification described in subdivision (3);

within the time limits set forth in subsection ~~(g)~~; **(h)**.

~~(c)~~ **(d)** If a property owner, within the time allowed under subsection ~~(g)~~; **(h)**, notifies a district in writing that the property owner qualifies for the exemption under this section, the district shall, until the property owner's eligibility for an exemption under this section is determined, suspend the requirement that the property owner discontinue use of a septic tank soil absorption system and connect to the district's sewer system.

~~(d)~~ **(e)** A property owner who qualifies for the exemption provided under this section may not be required to connect to the district's sewer system for a period of three (3) years beginning on the district's sewer system's anticipated connection date. If ownership of the property passes from the owner who qualified for the exemption to another person during the exemption period, the exemption does not apply to the subsequent owner of the property.

~~(e)~~ **(f)** The district may require a property owner who qualifies for the exemption under this section to discontinue use of a septic tank soil absorption system and connect to the district's sewer system if the district credits the unamortized portion of the original cost of the property owner's septic tank soil absorption system against the debt service portion of the customer's monthly bill. The amount that the district must credit under this subsection is determined in STEP TWO of the following formula:

STEP ONE: Multiply the original cost of the property owner's septic tank soil absorption system by a fraction, the numerator of which is ninety-six (96) months minus the age in months of the property owner's septic system, and the denominator of which is ninety-six (96) months.

STEP TWO: Determine the lesser of four thousand eight hundred dollars (\$4,800) or the result of STEP ONE.

The district shall apportion the total credit amount as determined in STEP TWO against the debt service portion of the property owner's monthly bill over a period to be determined by the district, but not to exceed twenty (20) years, or two hundred forty (240) months.

~~(f)~~ **(g)** A district that has filed plans with the department to create or expand a sewage district shall, within ten (10) days after filing the plans, provide written notice to affected property owners:

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(1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;

(2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and

(3) of the procedures to claim an exemption.

~~(g)~~ **(h)** To qualify for an exemption under this section, a property owner must:

(1) within sixty (60) days after the date of the written notice given to the property owner under subsection ~~(f)~~; **(g)**, notify the district in writing that the property owner qualifies for the exemption under this section; and

(2) within sixty (60) days after the ~~district receives date of~~ the written notice provided under subdivision (1), provide the district with the certification required under subsection ~~(b)(3)~~; **(c)(3)**.

SECTION 4. IC 13-26-5-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.6. (a) For purposes of this section, "local health department" includes a designee of a local health department.**

(b) As used in this section, "septic tank soil absorption system" has the meaning set forth in IC 13-11-2-199.5.

(c) This section applies to an owner of property located in an unincorporated area of a county.

(d) A district that has filed plans with the department to create or expand a sewage district shall, not later than ten (10) days after filing the plans, provide written notice to affected property owners:

(1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;

(2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and

(3) of the procedures to claim an exemption under this section.

(e) A property owner is exempt from the requirement to connect to a district's sewer system and to discontinue use of a septic tank soil absorption system if the following conditions are met:

(1) The property owner's septic tank soil absorption system was new at the time of installation.

(2) The property owner provides the district with the following documentation:

(A) The written notification of potential qualification for the exemption described in subsection (f).

(B) A certification from the local health department that

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1 the property owner's septic tank soil absorption system is
 2 functioning satisfactorily as described in subsection (h).

3 (f) Not more than fourteen (14) days after receiving notice from
 4 a district under subsection (d), a property owner that seeks to
 5 qualify for an exemption under this section must do the following:

6 (1) Notify the district in writing that the property owner
 7 qualifies for the exemption.

8 (2) Apply, at the property owner's own expense, to a local
 9 health department for a certification that the property
 10 owner's septic tank soil absorption system is functioning
 11 satisfactorily.

12 (g) Upon receiving written notice from a property owner under
 13 subsection (f)(1), and until the property owner's eligibility for an
 14 exemption under this section is finally determined, a district shall
 15 suspend the requirement that the property owner discontinue use
 16 of a septic tank soil absorption system and connect to the district's
 17 sewer system.

18 (h) Not more than ninety (90) days after receiving an application
 19 from a property owner under subsection (f)(2), a local health
 20 department shall inspect the property owner's septic tank soil
 21 absorption system and issue or deny a certification that the septic
 22 tank soil absorption system is functioning satisfactorily. A
 23 certificate issued under this subsection is valid for a period
 24 determined by the district that filed plans and provided notice to
 25 the property owner under subsection (b), but must be valid for at
 26 least two (2) years.

27 (i) If the local health department denies the issuance of a
 28 certificate to the property owner under subsection (h), the local
 29 health department shall notify the property owner in writing of
 30 each reason the certificate was denied. Not more than fourteen (14)
 31 days after a property owner is denied a certification under
 32 subsection (h), the property owner may apply to the local health
 33 department for a reinspection of the property owner's septic tank
 34 soil absorption system. The local health department that receives
 35 an application for reinspection shall reinspect the system:

36 (1) on a date not more than ninety (90) days after the date on
 37 which the property owner applied for reinspection; or

38 (2) on a date more than ninety (90) days after the date of the
 39 application for reinspection, if the date is agreed to by the
 40 property owner and the local health department;

41 and shall issue or deny the certification. If the septic tank soil
 42 absorption system is not functioning satisfactorily and the local

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1 health department again denies the certification, the property
 2 owner may appeal the denial to the board of the local health
 3 department. The decision of the board in an appeal under this
 4 subsection is final.

5 (j) Not more than thirty (30) days after receiving an initial
 6 certification issued under subsection (h) or (i), a property owner
 7 must provide the certification to the district to qualify for the
 8 exemption under this section. To maintain eligibility for an
 9 exemption under this section, a property owner must provide to the
 10 district an unexpired certificate issued under subsection (h) or (i)
 11 according to a schedule determined by the district but not more
 12 frequently than every two (2) years.

13 SECTION 5. IC 14-33-5-21 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) If the board
 15 issues revenue bonds for the collection, treatment, and disposal of
 16 sewage and liquid waste, the board may do the following:

17 (1) Subject to sections 21.1 and 21.2 of this chapter, establish
 18 just and equitable rates and charges and use the same basis for the
 19 rates as provided in IC 36-9-23-25 through IC 36-9-23-29.

20 (2) Collect and enforce the rates, beginning with the
 21 commencement of construction as provided in IC 36-9-23.

22 (3) Establish rules and regulations.

23 (4) Require connection to the board's sewer system of any
 24 property producing sewage or similar waste and require
 25 discontinuance of use of privies, cesspools, septic tanks, and
 26 similar structures. The board may enforce this requirement by
 27 civil action in circuit or superior court as provided in
 28 IC 36-9-23-30.

29 (5) Provide for and collect a connection charge to the board's
 30 sewer system as provided in IC 36-9-23-25 through
 31 IC 36-9-23-29.

32 (6) Contract for treatment of the board's sewage and pay a fair and
 33 reasonable connection fee or rate for treatment, or a combination
 34 of both, as provided in IC 36-9-23-16.

35 (7) Secure the bonds by a trust indenture as provided in
 36 IC 36-9-23-22.

37 (8) Create a sinking fund for the payment of principal and interest
 38 and accumulate reasonable reserves as provided in IC 36-9-23-21.

39 (9) Issue temporary revenue bonds to be exchanged for definite
 40 revenue bonds as provided in IC 36-9-23-17 through
 41 IC 36-9-23-20.

42 (10) Issue additional revenue bonds as part of the same issue if

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the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.

(11) Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.

(12) Covenant with the holders of the revenue bonds for the following:

(A) Protection of the holders concerning the use of money derived from the sale of bonds.

(B) The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.

(C) Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statute as provided in IC 36-9-23.

(b) In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

(1) attach;

(2) are recorded;

(3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and

(4) shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32.

SECTION 6. IC 14-33-5-21.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.1. (a) This section applies to a campground that:**

(1) is connected with the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5); or

(2) uses or is served by the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5).

(b) Beginning September 1, 2009, if a campground is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. If a campground elects to be billed by use of a meter:

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(1) the rate charged by the district's board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and

(2) the amount charged by the board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:

(A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or

(B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, for a calendar year beginning after December 31, 2009, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground; and

(2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.

SECTION 7. IC 14-33-5-21.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21.2. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 21.1(b) or 21.1(c) of this chapter who disputes:

(1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 21.1(b)(1) of this chapter;

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- (2) the number of resident equivalent units determined for the campground under section 21.1(c) of this chapter; or
 (3) that any additional charges imposed on the campground under section 21.1(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

- (1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:

(A) any grievance or complaint procedure prescribed by the board; or

(B) other negotiations with the board; and

- (2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:

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(1) the owner or operator of the campground; and

(2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for a review made under this section. The record must include:

(1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and

(2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3.

(h) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 8. IC 16-22-8-56 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 56. The board may not adopt or enforce an ordinance that requires a residential property owner to install a new septic system or update an existing septic system if the property owner:**

(1) installs, constructs, or remodels a structure that:

(A) is located on the property served by the existing septic system; and

(B) will not be served by any septic system;

and a permit is required for the installation, construction, or remodeling of the structure; or

(2) sells the property that is served by an existing septic system that is functioning satisfactorily.

SECTION 9. IC 16-41-25-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. The board of a local health department or the legislative body of a unit served by a local health department may not adopt or enforce an ordinance that requires a residential property owner to install a new septic system or update an existing septic system if the property owner:**

(1) installs, constructs, or remodels a structure that:

(A) is located on the property served by the existing septic system; and

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1 **(B) will not be served by any septic system;**
 2 **and a permit is required for the installation, construction, or**
 3 **remodeling of the structure; or**
 4 **(2) sells the property that is served by an existing septic**
 5 **system that is functioning satisfactorily.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1114, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 6, nays 1.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1114 be amended to read as follows:

Page 6, after line 12, begin a new paragraph and insert:

"SECTION 5. IC 16-22-8-56 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 56. The board may not adopt or enforce an ordinance that requires a residential property owner to install a new septic system or update an existing septic system if the property owner:**

(1) installs, constructs, or remodels a structure that:

(A) is located on the property served by the existing septic system; and

(B) will not be served by any septic system;

and a permit is required for the installation, construction, or remodeling of the structure; or

(2) sells the property that is served by an existing septic system that is functioning satisfactorily.

SECTION 6. IC 16-41-25-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. The board of a local health department or the legislative body of a unit served by a local health department may not adopt or enforce an ordinance that requires a residential property owner to install a new septic system or update an existing septic system if the property owner:**

(1) installs, constructs, or remodels a structure that:

(A) is located on the property served by the existing septic system; and

(B) will not be served by any septic system;

and a permit is required for the installation, construction, or remodeling of the structure; or

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(2) sells the property that is served by an existing septic system that is functioning satisfactorily."

Renumber all SECTIONS consecutively.

(Reference is to HB 1114 as printed February 13, 2009.)

THOMPSON

HOUSE MOTION

Mr. Speaker: I move that House Bill 1114 be amended to read as follows:

Page 6, after line 12, begin a new paragraph and insert:

"SECTION 5. IC 14-33-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) If the board issues revenue bonds for the collection, treatment, and disposal of sewage and liquid waste, the board may do the following:

- (1) **Subject to sections 21.1 and 21.2 of this chapter**, establish just and equitable rates and charges and use the same basis for the rates as provided in IC 36-9-23-25 through IC 36-9-23-29.
- (2) Collect and enforce the rates, beginning with the commencement of construction as provided in IC 36-9-23.
- (3) Establish rules and regulations.
- (4) Require connection to the board's sewer system of any property producing sewage or similar waste and require discontinuance of use of privies, cesspools, septic tanks, and similar structures. The board may enforce this requirement by civil action in circuit or superior court as provided in IC 36-9-23-30.
- (5) Provide for and collect a connection charge to the board's sewer system as provided in IC 36-9-23-25 through IC 36-9-23-29.
- (6) Contract for treatment of the board's sewage and pay a fair and reasonable connection fee or rate for treatment, or a combination of both, as provided in IC 36-9-23-16.
- (7) Secure the bonds by a trust indenture as provided in IC 36-9-23-22.
- (8) Create a sinking fund for the payment of principal and interest and accumulate reasonable reserves as provided in IC 36-9-23-21.
- (9) Issue temporary revenue bonds to be exchanged for definite revenue bonds as provided in IC 36-9-23-17 through IC 36-9-23-20.

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(10) Issue additional revenue bonds as part of the same issue if the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.

(11) Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.

(12) Covenant with the holders of the revenue bonds for the following:

(A) Protection of the holders concerning the use of money derived from the sale of bonds.

(B) The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.

(C) Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statute as provided in IC 36-9-23.

(b) In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

- (1) attach;
- (2) are recorded;
- (3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and
- (4) shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32.

SECTION 6. IC 14-33-5-21.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.1. (a) This section applies to a campground that:**

(1) is connected with the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5); or

(2) uses or is served by the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5).

(b) Beginning September 1, 2009, if a campground is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. If a

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campground elects to be billed by use of a meter:

- (1) the rate charged by the district's board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and**
- (2) the amount charged by the board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:**
 - (A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or**
 - (B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.**

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, for a calendar year beginning after December 31, 2009, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

- (1) the installation of:**
 - (A) oversized pipe; or**
 - (B) any other unique equipment;**
- necessary to provide sewage service for the campground; and**
- (2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.**

SECTION 7. IC 14-33-5-21.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21.2. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 21.1(b) or 21.1(c) of this chapter who disputes:

- (1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by**

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section 21.1(b)(1) of this chapter;

(2) the number of resident equivalent units determined for the campground under section 21.1(c) of this chapter; or

(3) that any additional charges imposed on the campground under section 21.1(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

(1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:

(A) any grievance or complaint procedure prescribed by the board; or

(B) other negotiations with the board; and

(2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the

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disputed matter. The division shall send a copy of the decision to:

- (1) the owner or operator of the campground; and
- (2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for a review made under this section. The record must include:

- (1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and
- (2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3.

(h) The commission may adopt rules under IC 4-22-2 to implement this section."

Renumber all SECTIONS consecutively.

(Reference is to HB 1114 as printed February 13, 2009.)

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